Supreme Ct. U.S.
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In The

Supreme Court of the United States

GRACIELA AMAYA, by and on behalf of herself, and, JAIME L. AMAYA, CARLOS J.AMAYA, TOMAS V. AMAYA, RYAN A. HANLEY, minors

Petitioners – Appellants – Plaintiffs

v.

JAY J. PITNER, WORLD SAVINGS BANK, MILWAUKEE COUNTY, SUSAN WITCLIFFE, MICHAEL GUOLEE, in official and personal capacities

Respondents – Appellees – Defendants

On Writ of Certiorari
To The United States Court of Appeals
For The Seventh Circuit

BRIEF FOR PETITIONER

Graciela Amaya
544 E. Ogden Ave., Ste. 700-250
Milwaukee, WI 53202
(414)243-8177
Pro Se

QUESTIONS PRESENTED FOR REVIEW

1. Does a recorded lis pendens notice have the same power as a recorded deed, conveyance and / or a land patent?

2. Can a **recorded** lis pendens **notice** be used to circumvent the constitution?

3. Can a court deny the power and validity of a United States land patent?

4. Can a court contradict its ruling to state they do not have jurisdiction to review a state court judgment, yet review the respondents argument, which is based entirely on review of **a prior owners** state court judgment, not the petitioners state court judgment, then rule in respondents favor based on review of someone else's state court judgment?

5. The 7th Circuit Court of Appeals stated review of state court decisions in civil litigation is limited to the Supreme Court's certiorari power under 28 U.S.C. § 1254 and quoted *Exxon Mobil Corp. v. Saudi Basic Indus. Corp., 2005 WL 711586, No. 03-1696(U.S. 3/30/05).* If this is so, then shouldn't the judgment have been ruled in Petitioners favor and Respondents should be petitioning this court for writ of certiorari if they chose to?

6. Does Rooker and Feldman doctrine apply when there is a complete lack of any court proceedings, lawsuit and appearances by an individual?

7. Can a pro se individual be denied the right to represent her children and their claims?

8. Does immunity protect defendants if they act on void judgments, void instruments or completely lack jurisdiction?

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REQUEST THIS COURT TO TAKE JUDICIAL NOTICE OF THE FOLLOWING:

Comes now Petitioner, Graciela Amaya, untrained in the law, unfamiliar with the local rules, without appropriate assistance, without effective consul requests to have this and any future pleadings be "liberally construed" according to the "Kerner Doctrine", *Haines v. Kerner, 404 US 519. Must be liberally construed, especially where civil rights claims are involved. Huffman v. Fiola, 850 F.Supp. 833, 836 (N.D. Cal. 1994) cite Hugher v. Rowe, 101 S.Ct. 173, 175-176 (1980). Must be liberally construed. Moore v. McDonald, 30 F.3d 616, 620 (5th Cir. 1994)*

JURISDICTIONAL STATEMENT

This court has jurisdiction under 28 U.S.C. § 1257 and / or § 1251. The 7th Cir. stated in its opinion affirming the District Cts. decision that this case is limited to the Supreme Court's certiorari power under 28 U.S.C. § 1254.(order, APPENDIX 1)

STATEMENT OF THE CASE

Petitioner Amaya filed the original action in the Eastern Dist. Ct. of Southeastern WI around Nov. 19, 2003 and the amended complaint on Nov. 25, 2003. The case was ordered dismissed by the Dist. Ct. at the hearing held on June 6, 2004. The 7th Cir. Ct. affirmed the Dist. Ct's. decision on April 4th, 2005. Petitioner Amaya filed a petition for rehearing en banc which was denied on July 8, 2005 by the 7th Cir. Cts. original panel.

STATEMENT OF FACTS

1. On June 19, 2003 Petitioner, Amaya, recorded her quit claim deed. (EXHIBIT 4)
2. On October 10, 2003, Respondents recorded their sheriff deed. (EXHIBIT 3)
3. Respondents sheriff sale and recording of the sheriff

deed has no force because it was recorded after my quit claim deed and without due process for Amaya. The deeds are prima facie evidence by the dates and the names which clearly shows my quit claim deed was recorded before their sheriff deed.

4. On November 14, 2003, Petitioners Amaya and family were evicted from their property.

5. On November 25, 2003, Amaya filed her amended complaint in United States District Court which stated plaintiffs were deprived / denied their property without due process of law, the takings clause, unreasonable seizures, and equal protection of the laws. In addition, she requested her pleadings be liberally construed.

6. Petitioner Amaya has a Land Patent on her property dated 1843. The Land Patent is the highest evidence of title. (EXHIBIT 5)

7. At June 2, 2004 hearing, the District Court **reviewed Bartkowiak's case** by allowing defendants pleadings to be **entered**. In pleadings, in my motions to strike and responses to defendants motions, I stated I didn't know all the details of Bartkkowiak's case, nor was it appropriate to use my complaint for a lawsuit that should have been filed by the defendants before taking my property.

8. The argument that federal courts do not have authority to review state cases has no merit in regards to this case because the facts of Bartkowiak's case were reviewed. The facts in Bartkowiak's case did not need to be reviewed to provide relief to Petitioner Amaya. The names and dates of the deeds, the land patent, the writ (EXHIBIT 1) and the 24 hour eviction notice (EXHIBIT 6) are prima facie evidence of the lack of due process and equal protection.

ARGUMENT & MEMORANDUM OF LAW IN SUPPORT OF ARGUMENT:

I. Petitioner, Amaya, recorded her interest in her property on June 19, 2003 before Appellees sheriff sale and recording of their sheriff deed filed on October 10, 2003. Once Amaya's deed was recorded, it became legally enforceable property, as detailed under Wis. Stat. 706.08.

Respondents argument fails due to Amaya's constitutional rights, jurisdictional requirements and immunities / privileges obtained on Amaya's Land Patent.

A. <u>A court must have jurisdiction in order to create valid judgments</u>

1. Parties agree that there was never a lawsuit filed against Amaya nor was Amaya involved in the proceedings that was adjudicated years before Appellant – Plaintiff Amaya filed her deed. The Respondents **<u>failed</u>** to acquire jurisdiction over Amaya. *Jurisdiction over the person is acquired* ***by actual service of processor personal appearance of the defendant which is a simple question of fact****. (See "conflict of law" in the law dictionaries) Once jurisdiction is challenged, it must be proven. <u>Hagens v. Lavine</u>, 415 U.S. 533, note 3.*

2. There are three essentials to obtain jurisdiction to adjudicate. They are as stated by the Supreme Court of the United States: the court must have cognizance of the class of cases to which the one to be adjudicated belongs; second, the **<u>proper parties must be present</u>**; and third, the point decided upon must be in substance and effect within the issue. Petitioner Amaya, was the proper person for jurisdiction, due to the filing of her deed and as the current owner of the property. *Jurisdiction is "The right to adjudicate concerning the subject-matter in the given case. To constitute this there are three essentials: First, the* ***<u>court must have cognizance of the class of cases</u>*** *to which the one to be adjudicated belongs; second, the* ***<u>proper parties must be present</u>****; and third, the point decided upon must be in substance and effect within the issue." <u>Reynolds v. Stockton</u>, 140 U.S. 254, 268.*

3. These jurisdictional requirements were not met before the seizure of my home. Therefore; the judgment, the sheriff deed, the writ were of no standing. As the Supreme Court of the United States stated void judgments and/or void deeds are of no standing in any court. *Wisconsin's courts had no jurisdiction to make such a decree binding upon appellant. <u>Baker v. Baker, Eccles & Co.</u>, 242 U.S. 394, 401; <u>Esenwein v.</u>*